In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.36204-M of 2007

.....

Date of decision:30.5.2007

Ravinder Tyagi

.....Petitioner

v.

State of Haryana and others

.....Respondents

....

Present: Mr. Ashok Tyagi, Advocate for the petitioner.

.....

S.S. Saron, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for directing respondents No.2 and 3 to initiate action against respondents No.4 to 7 in case FIR No.326 dated 1.11.2006 registered for the offences under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Saran, District Faridabad.

Learned counsel for the petitioner submits that despite the FIR being registered on 1.11.2006, no action has been taken against respondents No.4 to 7.

After hearing learned counsel for the petitioner and perusing the paper book it may be noticed that the Hon'ble Supreme Court in State of Haryana v. Ch. Bhajan Lal, A.I.R. 1992 S.C. 604 has held as follows:-

> "The investigation of a cognizable offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into

> the cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code and the Courts are not justified in obliterating the track of investigation when the investigating agencies are well within their legal bounds as aforementioned. Indeed, a noticeable feature of the scheme under Chapter XIV of the Code is that a Magistrate is kept in the picture at all stages of the police investigation but he is not authorized to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redressal of any grievance has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of police echelons since human dignity is a dear value of our Constitution. It needs no emphasis that no one can demand absolute immunity even if he is wrong and claim unquestionable right and unlimited powers exercisable up to unfathomable cosmos. Any recognition of such power will be tantamount to recognition of `Divine Power' which no authority on earth can enjoy".

A perusal of the above shows that the Court though is not normally to interfere in the investigating process so long as the investigation with

respect to cognizable offence is carried out in compliance with the provisions falling under Chapter-XII of the Code. However, the Illaqa Magistrate is kept in the picture at all stages even though he is not authorized to interfere in the actual investigation but if a Police Officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers the Court on being approached by the aggrieved person for the redress of his grievance has to consider the nature and extent of the breach and pass appropriate orders as may be called for. Therefore, the petitioner has an alternative remedy of approaching the trial Magistrate in the first instance setting out his grievances as have been made in the present petition. Therefore, the petitioner may approach the Illaqa Magistrate in the first instance. As the petitioner is having an alternative remedy it would not warrant that this Court should interfere at this stage in exercise of its inherent jurisdiction under Section 482 Cr.P.C.

In the light of the above observations, the present petition is dismissed being premature.

May 30, 2007. **(S.S. Saron)**
Judge

hsp